

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

MARY HODGE

vs.

MURPHY HEALTHCARE III, LLC A/K/A  
FRANKSTON HEALTHCARE CENTER

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CIVIL ACTION NO. \_\_\_\_\_

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

PLEASE TAKE NOTICE that Defendant MURPHY HEALTHCARE III, LLC d/b/a FRANKSTON HEALTHCARE CENTER (“Defendant”) hereby removes to this Court the state court action described below:

1. State Court Action. On January 15, 2010, Plaintiff commenced a state court suit in the County Court at Law in and for Anderson County, Texas, styled: *Mary Hodge v. Murphy Healthcare III, LLC a/k/a Frankston Healthcare Center*, Cause No. 11384. As required 28 U.S.C. § 1446 and by local rule CV-81, a certified copy of the state court docket sheet maintained by the clerk of the court in Anderson County is attached to this Notice of Removal as Exhibit “A.” All pleadings that assert a cause of action are attached to this Notice of Removal as Exhibit “B.” A copy of the Citation process served upon Defendant on January 20, 2010 is attached to this Notice of Removal as Exhibit “C.” No parties have requested a jury trial.

2. Federal Question Jurisdiction. Plaintiff’s Original Petition asserts the Fair Labor Standards Act, Title 29, Sections 201-219 of the United States Code as the sole basis of Plaintiff’s claims against Defendant for unpaid overtime premium pay. This action is ripe for removal to federal court under 28 U.S.C. § 1331 and 1441(b) because the asserted cause of action is founded on a claim or right arising under the laws of the United States.

3. Removal is Timely. Defendant has filed this Notice of Removal within 30 days of receipt of the Original Petition, meeting the requirements of 28 U.S.C. § 1446(b). Defendant first

received a copy of Plaintiff's state court citation, with Original Petition attached, on January 20, 2010.

5. Notice to Plaintiff. Defendant will give written notice of the filing of this Notice of Removal to Plaintiff's counsel of record and appropriately notify the clerk of the court of Anderson County, filing all necessary documents with the clerk of that county.

6. Consent to Removal. Defendant is the only defendant named by Plaintiff in its cause of action. Therefore, there is no need to obtain consent for removal from any other party.

WHEREFORE, Defendant prays that this Court accept jurisdiction and proceed with the handling of this case as if it had been originally filed here.

Respectfully submitted,

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BY: /s/ Gregory J. Wright  
GREGORY J. WRIGHT  
State Bar No. 22029800

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a duplicate of the foregoing document was served on all parties to this suit and/or their counsel of record on this the 16<sup>th</sup> day of February, 2010, in accordance with the Texas and Federal Rules of Civil Procedure as amended.

/s/ Gregory J. Wright  
Gregory J. Wright